

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>DARIAN LUCAS,</b>	)	
<b>Petitioner,</b>	)	
<b>v.</b>	)	<b>Civ. No. 09-1327 Pittsburgh</b>
	)	
<b>MARAVICH, et al,</b>	)	
<b>Respondents.</b>	)	

**MEMORANDUM ORDER**

A motion for leave to proceed *in forma pauperis* with an attached petition for writ of habeas corpus was received by the Clerk of Court on September 29, 2009, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates. On January 14, 2010, Lucas also filed a Motion (Doc. 3) in which he requests that this Court reopen a now-closed civil rights case filed in this court (Civil No. 99-17 Erie) and declare it (and several other unrelated civil rights actions) "non-frivolous."

The magistrate judge's report and recommendation, filed on February 19, 2010, recommended that the petition for writ of habeas corpus or petition for writ of mandamus, be construed as a motion for relief from a judgment or order pursuant to Federal Rule of Civil Procedure 60(b), and the same be denied. The parties were allowed fourteen (14) days from the date of service to file objections. Service was made on Petitioner by certified mail at SCI Dallas, where he is incarcerated. Objections were filed by Petitioner on March 4, 2010.

After de novo review of the petition and documents in the case, together with the Report and Recommendation and Petitioner's Objections thereto, the following order is entered:

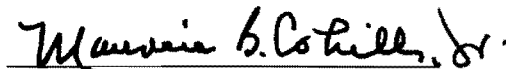
AND NOW, this 6<sup>th</sup> day of April, 2010,

IT IS HEREBY ORDERED that the Petitioner's Motion to reopen and have declared various civil actions "non-frivolous", construed as a motion for relief under Federal Rule of Civil Procedure 60(b) (Doc. 3), be and hereby is DENIED.

IT IS FURTHER ORDERED that the instant action, filed as a Petition for Writ of Habeas Corpus or as a Petition for Writ of Mandamus and construed as a motion for relief from a judgment or order pursuant to Federal Rule of Civil Procedure 60(b), be and hereby is DENIED.

The report and recommendation of Magistrate Judge Baxter, dated February 19 2010, is adopted as the opinion of the court.

This action is hereby DISMISSED.

  
Maurice B. Cohill, Jr.  
United States District Court Judge

cc: DARIAN LUCAS  
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SCI Dallas  
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